

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

JOAQUIN GUTIERREZ,

Defendant.

CASE NO. 8:15CR149

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report and Addendum (“PSR”) in this case and the Defendant objections (Filing No. 26). The government did not object to the PSR. The Defendant also has filed a motion for downward departure or variance and supporting brief (Filing Nos. 27 and 27-1). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

IT IS ORDERED:

1. The Defendant's Objection to the Revised Presentence Investigation Report (Filing No. 26) will be addressed at the sentencing hearing;
2. The Court intends to adopt the PSR in all other respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary

hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final;

5. The Defendant's Motion for Variance from Sentencing Guidelines (Filing No. 27) will be heard at sentencing; and

6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 27th day of October, 2015.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge